

# Notice of Allowability

Application No.

09/556,795

Examiner

Asok K. Sarkar

Applicant(s)

HATA ET AL.

Art Unit

2829

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to request for reconsideration filed 10/15/2003.
2. ☒ The allowed claim(s) is/are 3,4,8,9 and 11-22.
3. ☒ The drawings filed on 25 April 2000 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
- (a) ☐ including changes required by the Notice of Draftperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_
- (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
- (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

- 1 ☐ Notice of References Cited (PTO-892)
- 3 ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 5 ☐ Information Disclosure Statements (PTO-1449), Paper No. \_\_\_\_\_
- 7 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- 2 ☐ Notice of Informal Patent Application (PTO-152)
- 4 ☐ Interview Summary (PTO-413), Paper No. \_\_\_\_\_
- 6 ☒ Examiner's Amendment/Comment
- 8 ☒ Examiner's Statement of Reasons for Allowance
- 9 ☐ Other

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's explanation of the instant invention in pointing the difference with the cited prior art was found to be convincing to the Examiner. Additionally, Applicant's argument corrects the problems noted in Paper No. 26, paragraphs 2 – 6 and accordingly, the objection and rejection to claims 3 – 23 based on 35 U. S. C. 103 (a) is withdrawn.

**EXAMINER'S AMENDMENT**

2. The Applicant's representative was contacted in order to bring his attention to several depended claims in view of these claims falling under the 35 USC § 112, second paragraph problem.
3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with David Cho on November 10, 2003.

The application has been amended as follows:

Cancel claims 5 – 7.

In claim 8, line 2, delete "7", insert -- 3 -- .

In claim 8, line 3, following the word 'material', delete "and the thin film is deformed by the electrostatic external force generated between the thin film and the opposite electrode, thereby to form the thin film structure".

In claim 9, line 2, delete "7", insert -- 3 -- .

In claim 9, line 3, following the phrase '... thin film,' insert -- and -- .

In claim 9, line 3, following the phrase '... thin film' delete ", and the thin film is deformed by the electrostatic external force generated between the electrode layer and the opposite electrode, thereby to form the thin film-structure".

Cancel claim 10.

In claim 11, line 2, delete "10", insert -- 3 -- .

In claim 11, line 3, following the phrase '... thin film,' insert -- and -- .

In claim 11, line 3, following the phrase '... magnetic layer' delete ", and the thin film is deformed by the magnetic external force generated between the magnetic layer and the opposite electrode".

In claim 15, line 3, following the phrase '... thin film' delete ", and the thin film is deformed by the stress, resulting from the difference in thermal expansion coefficient between the thin film and the subsidiary layer, generated in their interface".

In claim 19, line 3, following the phrase '... thin film' delete ", and the thin film is deformed by the stress, resulting from the difference in internal stress between the thin film and the subsidiary layer, generated in their interface".

***Allowable Subject Matter***

4. Claims 3, 4, 8, 9 and 11 – 22 are now allowed.

5. The following is an examiner's statement of reasons for allowance:

Claims 3, 4, 8, 9 and 11 – 22 recite, inter alia, a method of producing a thin film structure comprising the steps of deforming by heating a thin film within supercooled phase region with a viscous flow between  $10^{11} - 10^{13}$  Pa.S and cooling the film to room temperature to stop deformation. The art of record does not disclose or anticipate the above limitation in combination with other claim elements nor would it be obvious to modify the art of record so as to form a device including the above limitation.

#### ***Conclusion***

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asok K. Sarkar whose telephone number is 703 308 2521. The examiner can normally be reached on Monday - Friday (8 AM- 5 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kammie Cuneo can be reached on 703 308 1233. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Application/Control Number: 09/556,795  
Art Unit: 2829

Page 5

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 4918.

Asok K. Sarkar  
November 12, 2003

  
**EVAN PERT**  
**PRIMARY EXAMINER**